

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF MISSISSIPPI  
3  
4 UNITED STATES OF AMERICA, )  
5 )  
6 Plaintiff, ) CASE NO. 3:15CR70  
7 )  
8 vs. )  
9 )  
10 JIXIAN ZHU, )  
11 )  
12 Defendant. )  
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14 SENTENCING AS TO COUNT 1 OF THE INDICTMENT  
15 BEFORE DISTRICT JUDGE MICHAEL P. MILLS  
16 THURSDAY, MAY 26, 2016; 11:00 A.M.  
17 OXFORD, MISSISSIPPI

18 FOR THE GOVERNMENT:

19 United States Attorney's Office  
20 MICHAEL HALLOCK, ESQ.  
21 900 Jefferson Avenue  
22 Oxford, Mississippi 38655-3608

23 FOR THE DEFENDANT:

24 Goldberger & Dubin, PC  
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401 Broadway, Suite 306  
New York, New York 10013

26 INTERPRETER: Robin Murphy

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28 Proceedings recorded by mechanical stenography, transcript  
29 produced by computer.

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30 RITA DAVIS YOUNG, FCRR, RPR, CSR #1626  
31 FEDERAL OFFICIAL COURT REPORTER  
32 911 JACKSON AVENUE EAST, SUITE 369  
33 OXFORD, MISSISSIPPI 38655

1 (CALL TO ORDER OF THE COURT)

2 THE COURT: Mrs. Pennebaker-Wilkerson, would you call  
3 the docket.

4 THE COURTROOM DEPUTY: Court calls Cause No.  
5 3:15CR70, United States of America v. Jixian Zhu. This is a  
6 sentencing as to Count 1 of the indictment.

7 THE COURT: All right.

8 Who speaks for the Government?

9 MR. HALLOCK: Michael Hallock. Good morning, Your  
10 Honor.

11 THE COURT: Good morning.

12 And for the defense?

13 MR. FANKBONNER: Good morning, Your Honor. For  
14 Mr. Zhu, Edgar Fankbonner.

15 THE COURT: All right. Do you have your client?

16 MR. FANKBONNER: Yes, Your Honor.

17 THE COURT: And who do we have from probation?

18 MR. COLE: Brandon Cole, Your Honor.

19 THE COURT: All right.

20 And do we have an interpreter?

21 THE INTERPRETER: Yes, Your Honor. Mandarin  
22 interpreter Robin Murphy.

23 THE COURT: All right. And glad to have you.

24 THE INTERPRETER: Thank you, Your Honor.

25 THE COURT: Do we need to administer an oath to the

1 interpreter?

2 THE COURTROOM DEPUTY: Yes, sir.

3 (OATH ADMINISTERED BY THE COURTROOM DEPUTY)

4 THE COURT: Mr. Fankbonner, have you reviewed the  
5 Presentence Report with your client?

6 MR. FANKBONNER: I have, Your Honor.

7 THE COURT: Do you have any unresolved objections?

8 MR. FANKBONNER: No, Your Honor.

9 THE COURT: Does the Government have any objections?

10 MR. HALLOCK: No, Your Honor.

11 THE COURT: Are you ready for the sentencing?

12 MR. FANKBONNER: Yes, Your Honor.

13 THE COURT: Come forward.

14 (PARTIES COMPLYING).

15 THE COURT: Mr. Hallock, you need to come up here  
16 too.

17 MR. HALLOCK: Yes, Your Honor.

18 THE COURT: All right. Mr. Zhu, on a previous day,  
19 you pled guilty to Count 1 of the indictment which charged you  
20 with conspiracy to commit fraud involving counterfeit credit  
21 cards. You are now before the Court for sentencing. And,  
22 before you are sentenced, is there anything you would like to  
23 say?

24 THE DEFENDANT: I really regret that I have done  
25 this. I ask that the Judge will give me a light sentencing,

1 please.

2 THE COURT: All right.

3 Mr. Fankbonner, did you have anything to say?

4 MR. FANKBONNER: Your Honor, I would rely on the  
5 submission that we submitted to the Court. I know that Your  
6 Honor has, in his possession, the number of letters that we  
7 submitted from friends and family of my client. In my  
8 submission to the Court, I set forth his equities; and I know  
9 the Court is aware of these. So we would rely on these and  
10 simply ask for lenity in sentencing today.

11 THE INTERPRETER: Your Honor, the interpreter could  
12 not hear the speaker. Could you please ask him to use the  
13 microphone?

14 MR. FANKBONNER: Certainly. I am relying on the  
15 sentencing submission and the letters we submitted on Mr. Zhu's  
16 behalf and ask the Court that my client be given lenity in  
17 sentencing.

18 THE COURT: All right. Thank you.

19 Mr. Hallock, did you have anything to say?

20 MR. HALLOCK: Your Honor, briefly, the United States  
21 would like to state the defendant has cooperated; and we fully  
22 expect him to testify truthfully should there be a trial  
23 against the two other individuals who participated in this  
24 scheme. We have filed a 5K1.1; and we would also request a  
25 dismissal of Counts 2 and 3, Your Honor.

1           THE COURT: All right. Thank you.

2           Well, Mr. Zhu, I'm about to state the reasons for your  
3 sentence. There being no objections, I will -- excuse me -- I  
4 will adopt the Presentence Investigation Report without change.  
5 Under the statute, you could receive 0 to 5 years'  
6 imprisonment; up to a \$250,000 fine; 0 to 3 years' supervised  
7 release; and a \$100 special assessment.

8           Under the guidelines, you have a total offense level of  
9 six, a criminal history category of Roman Numeral II. And the  
10 guidelines provide for an imprisonment range of 1 to 7 months  
11 and a supervised release range of 1 to 3 years and a fine of  
12 1,000 to 9,500 dollars. The fine will be waived because of  
13 your inability to pay.

14          I have also reviewed your record here, and you have a  
15 driving while intoxicated in 2013 for which you were ordered to  
16 attend alcohol treatment. And, more seriously, a 2013 assault,  
17 third degree, with intent to cause physical injury and  
18 menacing. And, Mr. Fankbonner, what was the outcome of that  
19 case?

20           MR. FANKBONNER: He pleaded to the violation of  
21 harassment, which is neither a misdemeanor or a felony. It  
22 carries a maximum of 15 days in jail, Your Honor.

23           THE COURT: Okay. What was he doing?

24           MR. FANKBONNER: I believe that this was -- I don't  
25 know the full facts of the case. I know it was a dispute with

1 another individual. There was some kind of physical  
2 altercation; but it, evidently, did not result in any injury to  
3 the other party.

4 THE COURT: Okay.

5 MR. FANKBONNER: The statute, Your Honor, if I may,  
6 generally contemplates physical contact with another person  
7 where no injury is ultimately sustained.

8 THE COURT: And is he working anywhere now?

9 MR. FANKBONNER: Yes, Your Honor. He's employed  
10 full-time at a Chinese restaurant in Brooklyn.

11 THE COURT: Okay. Now, I've also reviewed the  
12 letters, Mr. Zhu, that your attorney has furnished that were  
13 written on your behalf. I had a letter from your older sister,  
14 Xinxin; and a letter from your cousin, Ting Lin; and a letter  
15 from Zhirong Chen. And they all describe you as a very nice  
16 person, kindhearted, and loving.

17 A letter from Yang Chen, one of your friends. And a  
18 letter from Jingjing Li, who said that you are naive but  
19 kindhearted and charitable and loving and helpful. And then a  
20 letter from another friend, Dingming Dong, who attests to your  
21 great sense of humor and kind heart. And all of these people  
22 speak very highly of you.

23 And, after reviewing your history, I also see that you  
24 have a total amount of restitution in this case of \$7,165. I  
25 have considered the advisory guideline range, the statutory

1 penalties, and the sentencing factors in 18 U.S.C. Section  
2 3553(a)(2). I find no reason to depart from the sentence  
3 called for by application of the guidelines, and I note that  
4 the Government has filed a 5K1.1 motion.

5 MR. HALLOCK: Yes, Your Honor.

6 THE COURT: Have we addressed that? I think we have,  
7 haven't we?

8 MR. HALLOCK: I don't believe so, Your Honor.

9 THE COURT: Okay. What's the nature of his  
10 cooperation?

11 MR. HALLOCK: Your Honor, he has cooperated. He has  
12 proffered truthfully to the United States, and he is fully  
13 willing -- and we believe that he will testify against the two  
14 other individuals who participated in this scheme should they  
15 be apprehended.

16 THE COURT: Okay. Well, I'll take that into  
17 consideration.

18 And, based upon your cooperation and your agreement with  
19 the Government, I determine that, pursuant to the Sentencing  
20 Reform Act of 1984, that it is the judgment of the Court that  
21 the defendant, Jixian Zhu, is hereby committed to the custody  
22 of the Bureau of Prisons to be imprisoned for a term of time  
23 served on Count 1 of the indictment.

24 Defendant shall be placed on supervised release for a term  
25 of 3 years. The defendant shall comply with the following

1 mandatory conditions: He shall not possess a firearm,  
2 destructive device, or any other dangerous weapon. He shall  
3 cooperate in the collection of DNA as directed.

4 He shall comply with the standard conditions that have  
5 been adopted by this Court and the following special  
6 conditions: He shall provide the probation officer with access  
7 to any requested financial information.

8 He shall not incur new credit charges or open additional  
9 lines of credit without approval of the probation officer. And  
10 he shall participate in a program of testing and treatment for  
11 substance abuse as directed.

12 Restitution in the amount of \$7,165 shall be made directly  
13 to the U.S. District Court Clerk's Office, Northern District of  
14 Mississippi, for disbursement to the victims as follows: To  
15 Renasant Bank in Tupelo, Mississippi, \$2,400; Regions Bank in  
16 New Albany, Mississippi, \$1,200; First American National Bank  
17 in Iuka, Mississippi, \$1,147; Farmers & Merchants Bank in  
18 Baldwyn, Mississippi, \$1,618; BancorpSouth Bank in Tupelo,  
19 Mississippi, \$800.

20 Payment is to be paid in equal monthly installments as  
21 determined by application of the criminal monetary payment  
22 schedule adopted by this Court, and the moneys are due  
23 immediately. The defendant is jointly and severally liable for  
24 this amount, along with the co-defendant in this case. No fine  
25 is being ordered due to his inability to pay. However, he



1 shall pay a special assessment of \$100, which is due  
2 immediately.

3 Mr. Zhu, you have the right to appeal any sentence imposed  
4 illegally or as a result of a miscalculation of the guidelines  
5 or outside the guideline range or one that is plainly  
6 unreasonable. If you are unable to pay for the cost of an  
7 appeal, you may request the Court to waive such cost and/or  
8 appoint you an attorney. Do you understand the sentence that  
9 I've just stated?

10 THE DEFENDANT: Yes, I have, Your Honor.

11 THE COURT: All right.

12 And did -- there were two other counts? Is that correct?

13 MR. HALLOCK: Yes. Counts 2 and 3, we request those  
14 to be dismissed at this time, Your Honor.

15 THE COURT: And they will be. And did those counts  
16 also apply in that previous case?

17 MR. HALLOCK: Yes, Your Honor.

18 THE COURT: We need to go back and dismiss those  
19 also.

20 THE COURTROOM DEPUTY: Yes, sir.

21 MR. HALLOCK: Okay, Your Honor.

22 THE COURT: All right?

23 Anything further from the defense?

24 MR. FANKBONNER: Nothing further, Your Honor. Thank  
25 you.

1           THE COURT:   All right.

2           Anything from probation?

3           MR. COLE:   Nothing, Your Honor.

4           THE COURT:   All right.   Wish you the best of luck.

5           MR. FANKBONNER:   Thank you.

6           THE COURT:   I thank the interpreter, and you're now  
7 released.

8           THE INTERPRETER:   Thank you, Your Honor.

9                        (THE HEARING ENDED AT 11:15 a.m.)

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CERTIFICATE OF OFFICIAL REPORTER

I, Rita Davis Young, Federal Official Realtime Court Reporter, in and for the United States District Court for the Northern District of Mississippi, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter; and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 27th day of June, 2016.

/s/ Rita Davis Young  
RITA DAVIS YOUNG, FCRR, RPR, CSR #1626  
Federal Official Court Reporter